

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALLEN MICKE,

Plaintiff,

v.

OPINION and ORDER

20-cv-532-jdp

KILOLO KIJAKAZI,
Acting Commissioner of
Social Security,

Defendant.

Barry A. Schultz, counsel for plaintiff Allen Micke, moves under 42 U.S.C § 406(b) for a fee award of \$9,722.02. Dkt. 35. That figure represents 25 percent of Micke's award for past-due benefits less \$6,000 that was paid to another attorney who represented Micke at his remand hearing.¹ The amount requested falls within the amount allowed by statute and the parties' fee agreement. Dkt. 35. The motion is unopposed. Dkt. 36.

Schultz spent 42.9 hours on this case for proceedings in this court, Dkt. 35-3, so his requested fee results in a proposed effective rate of approximately \$226 per hour. This court has approved much higher rates before under § 406(b). *See, e.g., DeBack v. Berryhill*, No. 17-cv-924-jdp, Dkt. 31 (W.D. Wis. May 4, 2020) (approving effective rate of \$800 per hour); *Fischer v. Saul*, No. 17-cv-327-jdp, 2019 WL 5310676 (W.D. Wis. Oct. 21, 2019) (approving effective rate of \$641 per hour). The court concludes that Schultz's requested fee is reasonable in light of his risk of non-recovery, the work he performed, the results he obtained, and the amounts

¹ The total amount of Micke's past-due benefits isn't in the record. But Micke's counsel represents that \$15,722.02 represents 25 percent of the benefit award, and the commissioner doesn't dispute that figure.

awarded in similar cases. The court will grant the motion. For simplicity, the court will subtract the \$8,744.32 fee that Schultz received under the Equal Access to Justice Act, which would otherwise have to be refunded to Micke.

ORDER

IT IS ORDERED that Barry Schultz's motion for attorney fees under 42 U.S.C. § 406(b), Dkt. 24, is GRANTED. The court approves a representative fee of \$977.70.

Entered May 2, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge